

APPROVED

CITY OF GRACE
PLANNING & ZONING COMMISSION
CONDITIONAL USE PERMIT HEARING & REGULAR MEETING
HELD JANUARY 11, 2024, AT 7:00 P.M.

PRESENT: Chairman: Dave Pristupa

Commission Members: Kyle Bingham, Scott Rasmussen, Mark Crabb, Ralph Spackman
Zoning Clerk: Loy Raye Phillips

OTHERS PRESENT: Kelly Anderson, Larry Allen, Sheldon Mayne, Josh Hobbs

Chairman Pristupa called the hearing for Conditional Use Permit # 2024-227, for Kelly Anderson to order at 7:00 p.m.

Chairman Pristupa asked everyone to state their name for the record:

Kyle Bingham, Scott Rasmussen, Kelly Anderson, Josh Hobbs, Sheldon Mayne, Larry Allen, Mark Crabb, Ralph Spackman, Loy Raye Phillips, Dave Pristupa

Chairman Pristupa thanked the patrons for attending the public hearing.

Chairman Pristupa stated Kelly Anderson, petitioner is requesting approval of a Conditional Use Permit # 2024-227 to allow storage of used vehicles in the I (industrial) Zone. City Ordinance for the I (industrial) Zone: Uses Allowed: 3-1-6 (B) Conditional Uses Permitted. The address of the parcel is 202 Industrial Park. Grace, ID., legal description TR SW $\frac{1}{4}$ SW $\frac{1}{4}$, 4.7 AC., SEC 1, T10SR40E, CPICL.

Kelly Anderson:

Mr. Anderson stated that this all stemmed from a letter received from the City of Grace. Mr. Anderson stated that he purchased the property for a fuel tank, there was extra property that could be used to help with the items that are done at the shop. Mr. Anderson stated that he did not necessarily want the vehicles, but it is part of what happens and what type of business he owns. He store the vehicles and then sells and starts over again. Mr. Anderson stated it is an ongoing thing.

Mr. Anderson stated that the vehicles were supposed to be gone this summer, that Leaf Wallin was having an iron business come to crush vehicles and what not at his place. Mr. Anderson stated that when the crusher came the vehicles were to be part of the deal to be crushed. Mr. Anderson stated that the vehicles are still there, and some citizens do not like them stored on the property. Mr. Anderson stated that he was told he needed a Conditional Use Permit to be able to continue with the storage of the vehicles on the property.

Sheldon Mayne:

Mr. Mayne stated that it was like he stated in the letter that he had no problem with the vehicles but wondered about the city code for the storage of the vehicles on the property. Mr. Mayne stated that it is kind of an eyesore, wondering about it being a salvage yard or junk yard needing fencing or whatever, to follow the city code.

Chairman Pristupa asked for any other comments. There were none.

Chairman Pristupa adjourned the Conditional Use Permit hearing at 7:05 p.m.

Chairman Pristupa called the regular meeting of the Planning & Zoning Commission held on January 11, 2024, to order at 7:06 p.m.

PRESENT: Chairman: Dave Pristupa

Commission Members: Ralph Spackman, Kyle Bingham, Mark Crabb, Scott Rasmussen

Zoning Clerk: Loy Raye Phillips

OTHERS PRESENT: Kelly Anderson, Josh Hobbs, Larry Allen, Doug Wood, Sheldon Mayne

Mr. Anderson asked if the Planning and Zoning Commission had any questions? Chairman Pristupa stated that he had to follow the agenda for the regular meeting procedure. Commission Member Rasmussen stated that he would assume that Mr. Anderson would rather have the vehicles there than over on the shop lot. Mr. Anderson stated that was the mindset when he purchased the property. Mr. Anderson stated that he didn't realize that the industrial wouldn't allow that. Chairman Pristupa stated that the city does have ordinances for so called junk yard, basically that is what it is, technically they are junk vehicles. Chairman Pristupa stated that the meeting is out of order of the agenda and there are ordinances that require a place to store vehicles they do need to be fenced in with a fence that prevents people from entering the property and is not visible to the public, either a chain link fence with slats or a wooden fence. Mr. Anderson stated that for a couple of reasons one was to put storage units around the perimeter and the cars. The storage units was going to be the fence. Mr. Anderson stated that fences are nice, but they are expensive to build and maintain and then someone would be upset that the fence was not being maintained. Mr. Anderson stated another question he had was the dilemma over the property boundaries. Clerk Phillips stated there were two surveys one that Mr. Anderson had done and one that the city has done. Chairman Pristupa stated that he understood where Mr. Anderson was coming from, and the codes would be discussed in the regular meeting. Chairman Pristupa stated that the Planning & Zoning Commission could not make a decision. Mr. Anderson asked that if he left would the commission be able to get the correct information. Chairman Pristupa stated that the ordinance would be brought up and how it affects and what condition can be altered or not. Chairman Pristupa stated that this was the first time that the Planning & Zoning Commission had heard the reason for the conditional use permit.

Invocation: Commission Member Bingham

Pledge of Allegiance: Clerk Phillips

Chairman Pristupa asked the Commission Members if they had read the minutes of the previous meeting and if there were any changes or corrections?

Motion was made by Commission Member Crabb to approve the minutes of the Zoning Map Amendment Change and the regular meeting held on December 14, 2023. Motion was seconded by Commission Member Rasmussen. Motion passed unanimously.

Report from City Council:

Chairman Pristupa stated the City Council installed a new city council member Curtis Toone and reinstalled councilwomen Kathy Tillotson. The city council thanked Mike Ridenour for his service to the city. Chairman Pristupa stated that he asked permission for the Planning & Zoning Commission to have Attorney Wood to the meeting on January 11, 2024, which the city council gave permission. Chairman Pristupa stated that he would attend the city council meeting next week.

Zoning Business:

Chairman Pristupa opened the discussion on Conditional Use Permit # 2024-227 for Kelly Anderson.

Chairman Pristupa stated that there were letters sent out to the property owners within three hundred feet (300') of the property. There were thirteen letters (13) sent and six letters (6) were returned.

Sheldon Mayne	Comments: Just want to follow the City of Grace Code for the salvage yard. Possible fence. What is code for salvage yards in the city industrial park area. "These are salvage cars".
Michael Thomas	Comments: Environmental concern: Fuel, oil. As a business Owner I am fine with it as long as it doesn't turn into a junk/salvage yard. Most communities require a fence if it is a junk yard.
Healthy Soils	Do not support the applicant's request. Comments: It is interesting the city is worried about weeds around buildings but want to allow a junk yard next to a public gathering place in the area,-- the fairgrounds.
ACC Corp/ Kent Corbett	Neutral
Loy Raye Phillips	Comments: There is not a problem with Mr. Anderson storing the used vehicles on his property as long as the property is clean and taken care of. A question that comes to mind is the environmental side of the vehicles being stored. What is the plan to take care of the oil, gas, other fluids, etc. and batteries that are left in the vehicle being stored which could leak into the soil? Is there any safety procedure to keep people from trespassing on the property to take items from the vehicles?
Riley Crookston, City of Grace Superintendent	Neutral

Chairman Pristupa stated that he does have the City Ordinance regarding the Junk Storage.

Chairman Pristupa stated that Chapter 3, Junk Storage; Sections 6-3-1, through 6-3-5 is the ordinance. 6-3-1: Declaration of Nuisance; 6-3-2: Exceptions, 6-3-3: Abatement of Nuisance, 6-3-4: Abatement By City, 6-3-5: Violation of Infraction.

6-3-1: Declaration of Nuisance: The accumulation and storage of unused, stripped, wrecked, dismantled, inoperative, unregistered, unlicensed vehicles, recreational vehicles, all-terrain vehicles, as the same are

defined in Chapter 1, title 49, Idaho Code, snowmobiles, as defined in chapter 71, title 67, Idaho Code, or snowmobiles which do not have affixed thereto current identification numbers as required by state law, or parts of any said vehicles, and any other vehicles, machinery, implements, and/or equipment and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, or the accumulation of materials to include lumber, junk, trash, refuse, debris or abandoned, discarded, unused or inoperable items such as furniture, stoves, refrigerators, freezers, bottles, cans or other containers, on private or public property, is hereby found to create a condition tending to reduce the value of private property, to promote blight and deterioration in community neighborhoods, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to health and safety of minors, to create a harborage for rodents, animals and insects, and to be potentially injurious to the health, safety, and general welfare of the residents of the city; and is therefore, except as expressly hereinafter permitted, declared to be unlawful and to constitute a public nuisance which may be abated in accordance with the provisions of this chapter. (Ord 280, 6-18-2008).

6-3-2: Exceptions: The following are exempt from compliance with this chapter: (A) Commercial Exceptions: The organized outdoor storage of items, except vehicles, recreational vehicles, all-terrain vehicles, or snowmobiles, as described in section 6-3-1 of this chapter in commercial or agricultural enterprise, the storage of which does not create fire hazards, hazards to the health and safety of persons and residents, or create a harborage for rodents, animals and insects or are deemed potentially injurious to the health, safety and general welfare of the residents of the city. The storage of vehicles, recreational vehicles, all-terrain vehicles, and snowmobiles in violation of section 6-3-1 of this chapter shall not be permitted pursuant to this subsection. Property which is "legitimately for sale" is personal property actively offered for sale through methods of informing or soliciting buyers of goods, including, but not limited to, use of signs, handbills, newspaper advertisements, and direct personal contacts.

(B): Enclosed Storage/Privacy Fences: The storage of items in completely enclosed buildings authorized to be used for such storage purposes, or placement of the same behind a well maintained privacy fence which obscures and limits the visibility of items on property from adjoining properties, highways, or city streets, that also meets applicable building codes and the zoning ordinance of the city if the same does not create fire hazards, hazards to the health and safety of persons, or create a harborage for rodents, animals and insects, or which may be deemed potentially injurious to the health, safety and general welfare of the residents of the city. Any such item stored behind a privacy fence within enclosed buildings shall not create odors offensive to neighboring property owners, or constitute a hazardous material or substance as defined by federal or state law. A privacy fence shall be six feet (6') in height, where permitted applicable zoning laws, constructed of building materials designed and manufactured for the purpose of privacy fencing, or construction as approved by the planning and zoning commission and the city council as part of the construction permit approval process. All fencing materials shall be architecturally compatible with the neighborhood in which they are erected. The following materials are generally acceptable:

1. Chain link with sight proof inserts;
2. Wood (fabricated primarily as a fencing material);
3. Masonry, brick, or cinder block
4. Vinyl

6-3-3: Abatement of Nuisance: The owner, tenant, occupant of any lot or parcel of property within the corporate limits of the city, upon which such storage or accumulation is made, and also the owner, and/or lessee of the property being stored shall jointly and severally abate said nuisance by the prompt removal and storage of said property into completely enclosed buildings authorized to be used for such

storage purposes, or behind a well maintained sight proof fence in accordance with subsection 6-3-2 B of this chapter so that the same is not visible from any street or other public or private property within the corporate limits of the city, or shall remove said items to a location outside said corporate limits. (Ord. 272, 9-18-2007).

6-3-4: Abatement by City: Nuisances which remain unabated after notice may at the option of the city, be removed, abated, or destroyed by the city or its agents, which the following steps have been taken:

Chairman Pristupa stated that 6-3-4: Abatement by City (A) through (F) goes through process the city will follow to abate the nuisance that is being addressed. This is what the ordinance for the city is currently. The city council have been discussing going through some of the ordinances to make them more useful and friendly for the citizens.

Question was asked if on the conditional use permit if there was any way Mr. Anderson could draw the storage units he is going to build and attach to the permit?

Mr. Anderson stated that the perimeter is quite large and there is a lot of space on the property. If in time he changed his mind, can access be allowed on both sides, inside, it is not going to be a building plan and he does not want to be held to the plan if he decides he wants twenty five feet (25') or thirty feet (30'). Mr. Anderson stated he could do the drawing, but he doesn't want to be locked into whatever he has drawn, does not want the city to come back and say now you are doing something else, because when the time comes money will dictate. Mr. Anderson stated he could give the Planning & Zoning the perimeter easily but some of the things going in on the inside, buildings, and things along the perimeter, as long as he is not held to that there is no problem.

Commission Member Bingham asked Mr. Anderson what is the rough time on the storage sheds? Mr. Anderson stated it was the money issue, which has been out of reach until the property is paid for. Mr. Anderson stated that it would be approximately three years. It is certainly six months or this summer.

Commission Member Rasmussen stated that he can see what is going on with the property.

Sheldon Mayne was wondering if the cars were going to be stacked and left or will they be scrapped yearly?

Mr. Anderson stated this is what people do not realize. Mr. Anderson stated that he would go back to the tires when he built the new building. Mr. Anderson stated that he had the tires stacked and the city stated they had to be removed, called the recycle center and they stated they would come, stating that they would be here at this time. The recycle center would be coming in with a forty foot (40') trailer and a grasp hook. The recycle people stated they could not access the property, so I started hauling the tires over to the field of dreams behind the shop and stacked them of course everyone was up in arms. Mr. Anderson stated that it was scheduled to have them removed in the spring. The Mayor comes over in arms wanting the tires gone. Mr. Anderson stated that he explained to the Mayor that he had called the recycle people and was scheduled for removal and no one showed. The deal with Mr. Wallin has been on the table for a year currently. Mr. Anderson stated that he scheduled the crushing of the cars every six months and that does not mean that because it is scheduled to come that it will happen.

Mr. Anderson stated that if the Planning & Zoning Commission were going to hold him to every six months, he will haul them out one at a time. The recycle people do not come when you make the call, and his hands are tied that way as well.

Mr. Mayne stated that the county have cars and metal and they are on a yearly basis or every six months. Discussion was had on what the county was doing with the scrape metal.

Mr. Hobbs stated that Mr. Lower would not have the crusher come in until the price of metal goes up. Mr. Hobbs stated that the crusher comes to the land fill every six months and so they speculate the number of items to be crushed. This is done by third party.

Chairman Pristupa stated that when you deal with a third party they have to deal with fuel, crusher, and etc. Mr. Anderson stated he would do what he can to comply.

Chairman Pristupa stated that this is not something that the Commission created. Mr. Anderson stated that he had a place to store the cars which is not on main street. The cars accumulate and the idea was to remove them to the industrial area. Mr. Anderson stated that he would crush the cars and comply with the ordinance, there is a timeline and there are strict guidelines involved.

Chairman Pristupa stated that 6-3-5: Violation an Infraction: Any person, business, agency, or corporation who violates the provisions of this chapter by creating or maintaining or allowing to be created or maintained any "nuisance" as defined herein shall be guilty of an infraction and upon a plea of guilty thereto, or after having been found guilty of a violation of this chapter, shall be punished by a fine of one hundred dollars (\$100.00). Any person, business, agency, or corporation who pleads guilty to or is found guilty of the provisions of this chapter, who previously has been found guilty of or has pled guilty to a violation of this chapter, within ten (10) years, is guilty of an infraction, and shall be punished by a fine of three hundred dollars (\$300.00). Any person who pleads guilty to or is found guilty of a violation of the provisions of this chapter who has previously been found guilty of or has pled guilty to two (2) or more violations of the provisions of this chapter within ten (10) years shall be guilty of an infraction and shall be punished by a fine of five hundred dollars (\$500.00). Each day that such violation shall continue shall be deemed to be a separate offense. A citation for an infraction violation of this chapter may be issued concurrently with, or in addition to, any other procedures as may be pursued by the city as set forth in this chapter. (Ord. 282, 11-19-2008).

Chairman Pristupa stated that the fines keep going up. Chairman Pristupa stated that City Attorney Wood is here for a different reason the Commission would like to know if they have the right to modify a ordinance on a request for a conditional use? Is this correct?

Attorney Wood stated that on the Ordinance itself no. Chairman Pristupa stated that the Commission could change to allow the conditions. Attorney Wood stated that this could be allowed.

Chairman Pristupa stated that to move the problem from the R 1 (residential) Zone Mr. Anderson moved the salvage to the I (industrial) Zone.

Commission Member Spackman asked Mr. Anderson what was needed and deemed reasonable to make this happen? Commission Member Spackman asked Mr. Anderson if the weeds could be kept down, and spray the field? Mr. Anderson stated that he sprayed around the cars. Mr. Anderson stated that what is happening with the field that Matt Loertscher has been swathing and baling the grass once or twice a

year. Mr. Anderson stated that he did not know where to put the vehicles, which is better than main street. Mr. Anderson stated that if he needed to enclose the vehicles he would, but he would balk at a fence. If you mandate a fence immediately, he will haul the cars away. He will not put up a fence and spend that kind of money when he is planning on putting up the storage units. Mr. Anderson stated that he was concerned with the timeline. If you state that it must be done this year it will not happen, it cannot be done, and he will not lead you to believe it can be done this year because it cannot be done.

Chairman Pristupa asked Mr. Anderson if the fluids were out of the vehicles before they are moved to the property? Mr. Anderson stated that if he said he drained every single fluid you would know that I am lying. The gas tanks are empty, the refrigerants, engine oil, but the brake fluid is drained no but the differential oil no. The transmissions if not broken. You have to understand that there are men at the shop that aren't always doing what they are asked on the vehicles, yes, an effort is made. Mr. Anderson stated that he does not want a car over there tipped over and have an oil spill. Mr. Anderson stated that an effort is made and if you go look for oil on the ground you will find it. Chairman Pristupa stated that the question would come up from the environmental standpoint. Mr. Anderson stated that all batteries are removed because of the core charge value.

Facts and Findings:

CASE # 2024-227 KELLY ANDERSON

CHECKLIST FOR FINDINGS OF FACTS- CONDITIONAL USE PERMIT

- (1). The proposed conditional use is necessary for the public convenience at the location.
No, it is not a convenience for the public.
Would rather see it in the industrial zone than the commercial zone.
It is a benefit to the public.
- (2). The proposed conditional use is so designed, located, and proposed to be operated that the public health, safety, and welfare will be protected?
Possible –doing best—children could go to the property and may be injured by playing around on the vehicles which is a possibility.
- (3). The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
The property is in an Industrial area next to a Commercial area. Next to the fairgrounds, next to the city, water, sewage, and garbage. The possibility of a fire being started. The maintenance of weeds. With drawing the fuels from the vehicles so there was no fuel in the tank of the car. The scavenging of the vehicles
- (4). The proposed conditional use is designated by this code as listed conditional use in the zoning district in which the property in question is located.
Yes
- (5). The effect of the Conditional Use on the City's Comprehensive Plan
It has no effect on the Comprehensive Plan
- (6). The effect of development would have on schools, traffic, streets, shopping, public utilities, and adjacent properties.
None
- (7). Is the application necessary for the public convenience?
Personal business convenience rather than public convenience
- (8). In the case of an existing nonconforming use, will a conditional use permit make the use more compatible with surroundings.
Yes

(9). Will the conditional use be detrimental to the essential character of the district in which it is located?

No

Commission Member Rasmussen asked if a fence would make the difference? Is this the whole purpose behind this conditional use permit or is it a blockage or would the fence actually be a protection from what the Commission has discussed keeping someone from getting hurt.

Chairman Pristupa stated that the county's ordinance on junk yards are to have fences that prevent the visual of the yard.

Mr. Anderson stated that driving around Pocatello that Pacific Supply etc. have dirt piled up and planted shrubs around the edge of the dirt so that there is no visual of the enclosed area. Mr. Anderson asked if that would be doable around the area being discussed.

Chairman Pristupa stated that a berm could be used for visual cover with a gate in the berm to drive in. Mr. Anderson stated that there will be a gate to the fuel shed, not wanting to maintain a fence all the way around the property, due to snow removal, drifting of snow, kids. Mr. Anderson stated that even if he put up a six foot fence people were still going to ask what he has on the property. People will enter the property with or without a fence they will find a way to enter.

Chairman Pristupa stated that is why the City Attorney Wood was asked if the Commission could make recommendations to change the intent of the ordinance if the Commission had the authority to do so. Bringing in dirt or rock as a berm going along the property, even if it is bringing in huge boulders to make a fence, it would give you time to do the work. Discussion was had that this would also cost money to build the fence with rocks. Commission Member Bingham stated that the Commission could recommend a three year time frame, rather than wasting money on hauling rocks.

Commission Member Bingham asked about the time frame for future development. Mr. Anderson stated that time needs to be given and see how the money dictates to do the project. Mr. Anderson stated that if the storage units make more money than the cars, he will shut the vehicles down and go with the storage units. Commission Member Spackman stated that he was for improvement and Mr. Anderson needs to be given the time to make the improvements, thinking that is the direction the Commission needs to go.

Mr. Anderson asked if the time needed to make the improvements happened to go longer than three years maybe four years? Commission Member Rasmussen stated that then an extension would be required. Mr. Anderson stated that it would be legit that three years would work. Commission Member Rasmussen stated that there are citizens within the city that have had about ten years to fifteen years on permits and still do not have the siding on their home.

Chairman Pristupa stated that the Commission needs to be reasonable and entertain to allow an extension to allow Mr. Anderson to have the scrappers come to help remove the cars this year if possible. There will not be this many vehicles placed this year as wrecked vehicles if eighty percent (80%) of the vehicles were scrapped you would not have as many in a year's time. Mr. Anderson stated that this is part of the business, but when the wreckers were added to the business that is when the vehicles began to multiply, and we were not prepared for the increase, not realizing how many times a vehicle was hauled into the business. People who own the car will not call or come and remove the vehicle, not being able to get a title, do not get paid so it is put in the scrap yard.

Commission Member Bingham asked in this situation how long does it take to be able to scrap a vehicle, say you cannot get the title, the legal title? Mr. Anderson stated that he has to go and get an affidavit signed by the Sherriff, there is a certain amount of time required which is ninety days and then the Sherriff makes his visit, then an auction is held, which has to be published and then have the opportunity to buy. Mr. Anderson stated that he would get paid by scrapping the vehicle. Mr. Anderson stated that the vehicle could not be crushed without the title.

Chairman Pristupa stated that basically if the crusher were to come you could salvage the vehicles. Mr. Anderson stated that to be honest the vehicles over there are not the only vehicles to be crushed, you have the Wallins, the county, and others with vehicles to be crushed.

Commission Member Bingham stated that there needs to be a reasonable number of vehicles and a reasonable amount of time to please everyone. Commission Member Bingham stated that there are no double stacking of the cars. Mr. Anderson stated that you would not see the cars double stacked, there is plenty of room to park them in rows.

Chairman Pristupa asked the Commission Members for a motion on what needs to be presented to the city council.

Commission Member Crabb made the motion to grant the conditional use permit with a time frame which can extend if needed.

Mr. Anderson stated that he would start on the fairground side first and then do the center street side so that the public could not see the cars. Mr. Anderson stated he would start in three years and be done in four years.

Commission Member Rasmussen made the motion that the Planning & Zoning Commission move forward with Conditional Use Permit 2024-227 for Kelly Anderson and Mr. Anderson needs to begin within three year period for construction of storage units on eye site litigation. Motion was seconded by Commission Member Bingham. Motion passed unanimously.

Chairman Pristupa stated that when Mr. Anderson started on the construction of the storage units please come to the city and get a setting permit.

Chairman Pristupa stated that there would be conditions attached to the conditional use permit in regards, to the timeline, options that have been discussed, berm, fence, and storage units, so the city council knows which direction the Planning & Zoning Commission were recommending.

This will be presented to the city council next week. Mr. Anderson asked if he needed to be at the city council meeting. Commission Member Bingham stated that he should attend. Chairman Pristupa stated that the city council meets at 6:00 p.m. on January 17, 2024.

Question was asked to Mr. Mayne if he was okay with the salvaging of the vehicles? Mr. Mayne stated that was okay. Chairman Pristupa stated that salvaging can be a problem getting the businesses to open the doors to get to the salvage items.

Amendment to the Zoning Map:

Chairman Pristupa stated that the Zoning Map Amendment # 2023-02 for School District # 148 had been tabled until this meeting because of questions that had been asked at the meeting on December 14, 2023, asking Attorney Wood to join the Commission for discussion.

Chairman Pristupa stated that at the December 14, 2023, meeting the Commission were discussing the storage container that the School District and originally the school came to the Planning & Zoning Commission with a request to change from an R 1 (residential) Zone to a C (commercial) Zone.

Chairman Pristupa stated that in researching there is not any city in the State of Idaho that have a public school in anything less than an R 1 (residential) Zone. Charter Schools because they charge admission and make money can be in a C (commercial) Zone, often they are placed in a R 2 (residential) Zone. Some cities have broken down the zones as R 1 (residential) Zone, R 2 (multi-family residential) Zone, RH (hospital), RS (schools) all within the residential zone.

Chairman Pristupa stated that when the School District was building the new elementary school, they placed a storage container that Mr. Hobbs was keeping tools, etc., while they were building the school. Chairman Pristupa stated that the school would like to eventually build a storage building to use for storage and work out of at the present time the school is unable to build. Chairman Pristupa stated that someone suggested changing the zone to allow the storage container to remain on the property, without going through a conditional use. Question was asked does the city want to change the zone? Citizens that attended the meeting were concerned what happens to their properties if the school changes to a C (commercial) Zone and they are residential?

Attorney Wood stated that this is a good question. Remember we are trying to avoid what is called spot zoning, where there is a residential neighborhood and right in the middle there is a commercial zone. This is a reason why there are zones in the city. One of the first things looked at would this be spot zoning and if so, does the city want to move toward a conditional use rather than spot zoning situation.

Chairman Pristupa stated that other Commission Members had questions. Chairman Pristupa stated that Attorney Wood had answered one of the questions on the legal effect for changing the zone classification.

Commission Member Rasmussen stated that understanding a conditional use permit the Zoning Commission can set conditions. One of the concerns from a citizen within the neighborhood was if basically the school were to sell the property later, there could be a Taco Bell, or other business built. If the Commission were to allow a conditional use permit and leave the property as R 1 (residential) Zone, if the property were sold later, it would revert back?

Attorney Wood stated that if the foresight when granting the conditional use permit to state if there is any exchange or it is applicable to the school district only, so that if there is a subsequent owner purchases the property it automatically returns back. Attorney Wood stated that it would return back to the R 1 (residential) Zone. Attorney Wood stated that a temporary type of the nature a conditional use permit fits those situations and is not a permanent solution it is temporary issue. That is why he would recommend something else.

Mr. Hobbs stated that it would be okay with the conditional use permit. Mr. Hobbs stated that as long as the school can get the permit to hold on to the container for storage that would work. Attorney Wood asked Mr. Hobbs if the container was going to be there forever? Mr. Hobbs stated no, the school is

hoping to build a building. Mr. Hobbs stated the concession on the grounds is a container, with a crow's nest on the top. Commission Member Bingham stated that the concessions is not an eyesore. Mr. Hobbs stated that he would get the conditional use permit if needed. Chairman Pristupa stated that the timeline on the conditional use is until and if the school sells the property. Attorney Wood stated that the Commission can put a timeline on the permit, stating this is for three years. Attorney Wood stated that there was no termination date that states you must remove. Attorney Wood stated that Mr. Hobbs has the floor to start, but there is no ceiling there that states it needs to state it must be complete by a certain date. Attorney Wood stated that it is difficult to foresee anything with zoning ordinances and try to anticipate.

Chairman Pristupa stated that Mr. Hobbs stated that the school was checking with their attorney on the situation. Mr. Hobbs stated their attorney had not answered and if school can get the permit, it would be fine.

Chairman Pristupa stated that the storage container was placed at the elementary school.

Mr. Hobbs stated that at the present time the storage container was sitting on the south side of the elementary school and was needing to remove it.

Commission Member Rasmussen stated that there had been discussion on moving the container. Mr. Hobbs stated that it was going to be moved over next to blue storage shed that is close to the bus compound on the side.

Commission Member Rasmussen asked if there had been any complaints from neighbors about the storage shed. Mr. Hobbs stated that he had not received any. Chairman Pristupa stated that there were some after the letters went out to the property owners. Mr. Hobbs stated that the container would be on the side facing the Junior High School.

Chairman Pristupa asked if the school obtained a setting permit when the concession stands were built? Mr. Hobbs stated that Bart Christensen had done the work. Chairman Pristupa asked if this container was going to be used to build something for the football field, then the school will be required to apply for a setting permit, then it becomes a permanent structure.

Question asked to the Commission Members and to Attorney Wood regardless of issuing a conditional use permit on this R 1 (residential) Zone property is this going to have citizens stating the school has one why can't we place one on our property in R 1 (residential) Zone?

Commission Member Crabb stated that the issue has been looked at in great length. Commission Member Rasmussen stated that schools are not taxed. Attorney Wood stated that the question is valid in looking at 3-2-2: Storage Containers. Basically, the property is in an R 1 (residential) Zone situation, and Mr. Wood can see that argument being made, if the school can get a conditional use permit but why cannot I get one? Attorney Wood stated that the easy answer to that it is not a one size fits all, every case is different, and every scenario is different. Commission Member Bingham stated that it is a nontaxable real estate. Attorney Wood stated that this is where the Planning & Zoning Commission comes in to make determinations to recommend to the city council. Chairman Pristupa stated that if putting constraints on the conditional use that it is in a school zone which is non real estate nontax payer property, but if you have a home and have a container in an R 1 (residential) Zone the container is on taxable public property which is different.

Attorney Wood stated that some of the other issues are the aesthetic, asking if there are any complaints from the neighbors. Mr. Hobbs stated that the storage container is the same color as the shed where it will be placed. Attorney Wood stated that the point is the ordinances, the Commission does not want an unattractive nuisance but would want an attractive building. Attorney Wood stated that the city would not want animals and bad critters getting in the container, you would want something nice in place and when you look at the intent and follow the intent this would allow the Commission to make recommendations to the city council based on these specifics of each case.

Chairman Pristupa stated that a concern of changing the zone affects long term. Attorney Wood stated that it is a more permanent solution not a temporary issue especially if after a while there is a nice storage shed built.

Discussion was had that it creates a spot because there is R 1 (residential) Zone on the south, east, and north of the property. Discussion was had that there is agricultural land on the west side. Mr. Hobbs asked if the agricultural land was from the canal over or the road over? Mr. Hobbs asked if the city property was considered R 1 (residential) Zone or is it considered C (commercial) Zone? Chairman Pristupa stated that the office was sitting on R 1 (residential) Zone property. The houses across the road looking at the coloration of the map and where the school is at the area is residential and when you move up the street to where the businesses are it is commercial. There is commercial on West Center Street.

Chairman Pristupa stated that for Mr. Hobbs approving a Zoning Map Amendment Change to the zone. The Commission would recommend asking the Zoning Clerk to give Mr. Hobbs a Conditional Use Permit Application and go through the process, because there is time, to move the storage container due to the weather conditions.

Chairman Pristupa stated that a concern is depending on moving the storage container from where it sits now, in doing the conditional use temporarily it is here and permanently it is going to be set over here. Mr. Hobbs stated that it would not be done until late spring. Chairman Pristupa stated that it would not take the Commission until spring to issue the conditional use permit, but Mr. Hobbs will have to have a permit in force to move the storage container. The city council has the right to waive the fee of the permit.

Attorney Wood stated that it would be a good idea to know where the container will set when you come in to apply for the permit. The city council will know that the storage container is here and if it is approved and basically some neighbors complain that it is in my back yard. Mr. Hobbs stated that it would be out of site of the homes by the school, it would be completely blocked by the building it would sit next too. Attorney Wood stated that it would be a good idea to have it set where the school wants the container this would probably alleviate the situation of being seen by the homeowners on the south side.

Chairman Pristupa asked if there were any other questions for Attorney Wood? The Commission Members thanked Attorney Wood for coming.

Chairman Pristupa stated that the Commission was going to recommend a conditional use permit at this time for the storage shed.

Chairman Pristupa asked the Commission Members if they had watched the first video of the Association of Idaho Cities (AIC)? Chairman Pristupa stated that he would send out the link to AIC videos. It is the introductory video, there should be additional ones.

Chairman Pristupa passed out the completed Comprehensive Plan booklet to the Commission Members so they can review and stay on top of things in the city that citizens recommend or would like to see happen. Chairman Pristupa stated that the Commission could remove the spiral wire and have holes punched to place in there Zoning Manuals.

Chairman Pristupa stated that the other item that needs to be completed is zoning map for the City of Grace, and still working on the water rights, and where the east boundary will be next to the Bureau of Land Management and Forest Service ground. This needs to be completed so the map can be updated and placed on the wall. Chairman Pristupa stated that there are some areas of the city that do need to be rezoned that aren't industrial or commercial but that needs to be looked at by the city council. The city council has made recommendations to have the map altered.

Chairman Pristupa stated that Commission Member assignments for city council meetings for the year need to be completed. There are some members that may be changed in June, July and September, discussion was had that the Commission Members could serve for one more year according to the rules. Chairman Pristupa stated that he would attend the next meeting on January 17, 2024.

Commission Member Spackman asked the question when the Commission Member attends the city council meetings are we supposed to take a prepared statement or agenda? Chairman Pristupa stated that if there was something to be presented to the city council the Commission Member attending the meeting needs to elaborate on the details. For example, when Chairman Pristupa attends on January 17, 2024, the council will be informed that the school district will go with a conditional use permit rather than a Zoning Map Amendment Change, and Conditional Use Permit # 2024-227 for Kelly Anderson will be presented to the council and here is what the Planning & Zoning Commission recommends. Then if there are questions, they can be answered. Chairman Pristupa stated that if the Commission needs to present something to the city council it needs to be placed on the agenda and sometimes it can be done in the zoning portion of the meeting. The Zoning Clerk will have the City Clerk place the item on the agenda so that the information can be discussed and act on the issue.

Chairman Pristupa stated that the next Planning & Zoning Commission meeting will be February 8, 2024, at 7:00 p.m.

Chairman Pristupa asked if there was another business? There was none. Motion was made by Commission Member Bingham to adjourn the Planning & Zoning meeting. Motion was seconded by Commission Member Crabb. Motion Passed unanimously.

Meeting adjourned at 8:28 p.m.

ZONING CLERK

APPROVED: _____
CHAIRMAN/VICE CHAIRMAN

DATE: _____